

Notice of Allowability

Application No.

09/550,306

Examiner

Jonathan Ouellette

Applicant(s)

RICHARDS, TED

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/2/2007 and 4/20/2007.
2. ☒ The allowed claim(s) is/are 7 and 16.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20070420</u> |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with the Applicant's representative, Paul Qualey (Reg No. 45,027), on 4/20/2007.
3. The application has been amended as follows:
4. **Cancel Claims 5, 6, 8, 9, 14, 15, and 17-21.**

Response to Amendment

5. Claims 1-4 and 10-13 have been previously cancelled, and Claims 5, 6, 8, 9, 14, 15, and 17-21 were cancelled by Examiner's Amendment; therefore, Claims 7 and 16 are currently pending in application 09/550,306.

Allowable Subject Matter

6. Claims 7 and 16 are allowed.
7. The following is an examiner's statement of reasons for allowance:
8. As per **independent Claims 7 and 16**, the prior art does not teach or suggest a method/system for providing user information related to a user's selection of audio data;

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which discloses elements of analyzing (user's selections) and identifying (a user interest category) comprises the steps of: assigning each of said user's present audio data selections and said user's previous audio data selections to said at least one user interest category, *assigning each of said user's present audio data selections and each of said user's previous audio data selections an approximate time at which said audio data selection was received, assigning each of said audio data selections a weighting factor that decreases as the difference between a present time and the approximate time at which said audio data selection was received, multiplying the numerical value of an assignment to each of said at least one user interest category by corresponding weighting factor to produce a numerical value for a weighted assignment to each of said at least one user interest category, and counting the numerical value of the weighted assignment to each of said at least one user interest category;* and when the accumulated number of weighted assignments to a selected one of said at least one user interest category is greater than a selected threshold number, identifying the selected one of said at least one user interest category as a category from which said at least one user information item is selected.

9. **Kurtzman, II et al (US 6,144,944)** discloses a method (system) of providing user information related to a user's selection (Fig.2), the method comprising the steps of: receiving a user's selection and an indicium identifying the user (C6); analyzing the user's present selection and previous selections, if any, and identifying at least one user interest category based on the user's present and previous selections (C6, cookies); selecting at least one user information item from the at least one identified user interest category; associating or combining the at least one user information item (advertising) with the user's selection

(C6-C7); and delivering the associated or combined at least one user information item and the user's selection to the user over an electronic network (Fig.2).

10. Kurtzman fails to expressly disclose wherein the selection is audio data.

11. **Broadcast.com (www.broadcast.com, retrieved from Internet Archive Wayback**

Machine <www.archive.org>, page range: 12/1/1998-12/7/1998) discloses a method/system for selecting and obtaining audio data from the Internet (www.broadcast.com).

12. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein the selection is audio data, as disclosed by Broadcast.com in the system disclosed by Kurtzman, for the advantage of providing a method (system) of responding to a request, with the ability to increase customer service by supplying a variety of available information formats (audio and video) to choose.

13. However, neither Kurtzman nor Broadcast.com (individually or in combination) teach or disclose assigning each of said user's present audio data selections and said user's previous audio data selections to said at least one user interest category, *assigning each of said user's present audio data selections and each of said user's previous audio data selections an approximate time at which said audio data selection was received, assigning each of said audio data selections a weighting factor that decreases as the difference between a present time and the approximate time at which said audio data selection was received, multiplying the numerical value of an assignment to each of said at least one user interest category by corresponding weighting factor to produce a numerical value for a weighted assignment to each of said at least one user interest category, and counting the numerical value of the*

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weighted assignment to each of said at least one user interest category; and when the accumulated number of weighted assignments to a selected one of said at least one user interest category is greater than a selected threshold number, identifying the selected one of said at least one user interest category as a category from which said at least one user information item is selected, as claimed by the independent claims.

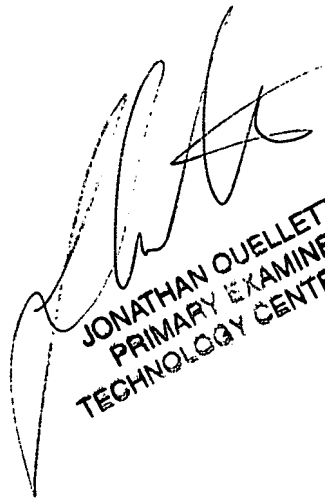
14. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

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May 13, 2007



JONATHAN OUELLETTE
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600